

## **EXHIBIT 11**

CONFIDENTIAL

Page 1

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA, WESTERN  
DIVISION

NIRVANA LLC, a )  
Washington Limited )  
Liability Company, )  
 )  
Plaintiff, )  
 ) Case No.  
v. ) 2:18-cv-10743-  
 ) JAK-SK  
MARK JACOBS )  
INTERNATIONAL, LLC, A )  
Delaware Limited )  
Liability Company SAKS )  
INCORPORATED, d/b/a )  
SAKS FIFTH AVENUE, a )  
Tennessee Corporation; )  
NEIMAN MARCUS GROUP )  
LIMITED, LLC, A )  
Delaware Limited )  
Liability Company, and )  
Does 1 through 10, )  
 )  
Defendants. )  
)

CONFIDENTIAL

February 25, 2020

9:39 A.M.

DEPOSITION OF MARC JACOBS, a  
Defendant, held at the offices of Regus,  
250 Park Avenue, New York, New York,  
before Sandra Noel Bartels, a stenographic  
reporter and Notary Public of the State of  
New York.

Page 2

1 A P P E A R A N C E S:

2

3 KENDALL BRILL & KELLY, L.L.P.  
4 Attorneys for Plaintiff  
5 10100 Santa Monica Boulevard  
6 Suite 1725  
7 Los Angeles, California 90067  
8 BY: BERT DEIXLER, ESQ.  
9 SARAH E. MOSES, ESQ.

10

11 RIMON, P.C.  
12 Attorneys for Plaintiff  
13 2029 Century Park East  
14 Suite 400N  
15 Los Angeles, California 90067  
16 BY: JILL BERLINER ESQ.

17

18 KELLEY DRYE & WARREN, L.L.P.  
19 Attorneys for Defendants  
20 101 Park Avenue  
21 New York, New York 10178  
22 BY: MICHAEL J. ZINNA, ESQ.

23

24 ALSO PRESENT:  
25 Phil Glauberson, Videographer.

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1 STIPULATIONS

2 IT IS HEREBY STIPULATED AND AGREED, by  
3 and among counsel for the respective  
4 parties hereto, that the filing, sealing  
5 and certification of the within deposition  
6 shall be and the same are hereby waived;

7 IT IS FURTHER STIPULATED AND AGREED  
8 that all objections, except as to form of  
9 the question, shall be reserved to the  
10 time of the trial;

11 IT IS FURTHER STIPULATED AND AGREED  
12 that the within deposition may be signed  
13 before any Notary Public with the same  
14 force and effect as if signed and sworn to  
15 before the Court.

16 \* \* \*

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1                   THE VIDEOGRAPHER: Good morning.

2                   We are going on the record at 9:39  
3                   A.M. on February 25, 2020. Please  
4                   note that the microphones are  
5                   sensitive and may pick up whispering,  
6                   private conversations and cellular  
7                   interference. Please turn off all  
8                   cellphones or place them away from the  
9                   microphones as they can interfere with  
10                  the deposition audio. Audio and video  
11                  recording will continue to take place  
12                  unless all parties agree to go off the  
13                  record. This is video one of the  
14                  video recorded deposition of Marc  
15                  Jacobs in the matter of Nirvana, LLC,  
16                  versus, Marc Jacobs International,  
17                  LLC, et al., filed in the United  
18                  States District Court, Central  
19                  District of California, Western  
20                  Division, Case No.  
21                  218-CV-10743-JAK-SK. This deposition  
22                  is being held at Regus, located at  
23                  250 Park Avenue, New York, New York.  
24                  My name is Phil Glauberson from the  
25                  firm Veritext and I am the

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1 videographer. The court reporter is  
2 Sandra Bartels from Veritext. I am  
3 not authorized to administer an oath.  
4 I am not related to any party in this  
5 action nor am I financially interested  
6 in the outcome. Counsel and all  
7 present in the room will now state  
8 their appearances and affiliations for  
9 the record.

10 MR. DEIXLER: Bert Deixler of  
11 Kendall, Brill & Kelly on behalf of  
12 plaintiff.

13 MS. MOSES: Sarah Moses, Kendall,  
14 Brill & Kelly on behalf of plaintiff.

15 MS. BERLINER: Jill Berliner,  
16 Rimon Law, on behalf of the plaintiff.

17 MR. ZINNA: Michael Zinna from  
18 Kelly Drye & Warren on behalf of  
19 defendants.

20 THE VIDEOGRAPHER: Will the court  
21 reporter please swear in the witness.

22 M A R C J A C O B S, called as a  
23 witness, having been duly sworn by a  
24 Notary Public, was examined and testified  
25 as follows:

1 EXAMINATION BY

2 MR. DEIXLER:

3 Q. Good morning, Mr. Jacobs.

4 A. Good morning.

5 Q. Mr. Jacobs, you understand your  
6 testimony today is under oath and subject  
7 to the penalty of perjury?

8 A. Yes.

9 Q. You understand we are proceeding  
10 in this informal setting as though you are  
11 testifying in the United States District  
12 Court for the Central District of  
13 California?

14 A. Yes.

15 Q. And you understand that the  
16 videotape of this deposition will be  
17 played for a jury in the Central District  
18 of California. Do you understand that?

19 A. Okay.

20 Q. I'm going to ask you a series of  
21 questions to which I would expect you give  
22 me answers. If at any time I ask you a  
23 question that you don't understand, will  
24 you tell me that?

25 A. Yes.

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1 mine. And so are a lot of smiley faces.

2 Have you ever seen the have a nice day  
3 logo?

4 Q. And so you offered for sale  
5 commercially a smiley face in the 1980s, a  
6 T-shirt or a dress or socks?

7 A. We had T-shirts, yes, and I think  
8 pins, badges as well.

9 Q. And that was in the 1980s?

10 A. Yeah, do you want to see it?

11 Q. Yeah, that would be great.

12 A. I looked it up when we were on  
13 the break. This is 1985. I just looked  
14 it up. That was 1985, that was before  
15 Nirvana. And we made sweaters and a  
16 T-shirt.

17 Q. Could you send this -- is that --

18 MR. ZINNA: We are not going to  
19 send that. That's in the record, that  
20 picture, already.

21 BY MR. DEIXLER:

22 Q. Is that a picture of you?

23 A. Yeah.

24 Q. You can take a picture of it.

25 You can also look it up. That's all I

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2 STATE OF \_\_\_\_\_ )

3 ) :ss

4 COUNTY OF \_\_\_\_\_ )

5

6

7 I, MARC JACOBS, the witness  
8 herein, having read the foregoing  
9 testimony of the pages of this deposition,  
10 do hereby certify it to be a true and  
11 correct transcript, subject to the  
12 corrections, if any, shown on the attached  
13 page.

14

15

16 MARC JACOBS

17

18

19

20 Sworn and subscribed to before me,  
21 this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

22

23

24 Notary Public

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1 CERTIFICATE  
2

3 STATE OF NEW YORK )  
4

3 : SS. :  
4

5 COUNTY OF ORANGE )  
6

7 I, SANDRA NOEL BARTELS, a Notary  
8 Public for and within the State of New  
9 York, do hereby certify:

10 That the witness whose  
11 examination is hereinbefore set forth was  
12 duly sworn and that such examination is a  
true record of the testimony given by that  
witness.

13 I further certify that I am not  
14 related to any of the parties to this  
15 action by blood or by marriage and that I  
16 am in no way interested in the outcome of  
17 this matter.

18 IN WITNESS WHEREOF, I have  
19 hereunto set my hand this 10th day of  
20 March 2020.

21  
22 *Sandra Noel Bartels*

23 SANDRA NOEL BARTELS  
24

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1 ----- I N D E X -----

2 WITNESS EXAMINATION BY PAGE

3 M. JACOBS MR. DEIXLER 6

4

5 ----- EXHIBITS -----

6 NUMBER DESCRIPTION PAGE

7 Exhibit 20 MJI-Nirvana 00658-662 228

8 Exhibit 21 MJI-Nirvana 003169-3175 240

9 Exhibit 22 MJI-Nirvana 000085-098 253

10 Exhibit 23 MJI-Nirvana 00960-2973 265

11 Exhibit 24 MJI-Nirvana 000635-642 285

12 Exhibit 25 MJI-Nirvana 003126-3131 290

13 Exhibit 26 MJI-Nirvana 001054-001059 295

14 Exhibit 27 MJI-Nirvana 001077 304

15 Exhibit 28 MJI-Nirvana 000476 312

16 Exhibit 29 MJI-Nirvana 000077-081 316

17 Exhibit 30 MJI-Nirvana 000059-074 324

18 Exhibit 31 MIJ-0000047 344

19 Exhibit 32 MJI-Nirvana 000049 333

20 Exhibit 33 MJI-Nirvana 000393-420 334

21 Exhibit 34 MJI-Nirvana 000001-006 338

22 Exhibit 35 MJI-Nirvana 000045-046 342

23 Exhibit 36 MJI-Nirvana 002993-2995 344

24 Exhibit 37 MJI-Nirvana 000562-574 347

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## INSTRUCTIONS TO WITNESS

Please read your deposition over carefully and make any necessary corrections. You should state the reason in the appropriate space on the errata sheet for any corrections that are made.

After doing so, please sign the errata sheet and date it.

You are signing same subject to the changes you have noted on the errata sheet, which will be attached to your deposition.

It is imperative that you return the original errata sheet to the depositing attorney within thirty (30) days of receipt of the deposition transcript by you. If you fail to do so, the deposition transcript may be deemed to be accurate and may be used in court.

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1 E R R A T A  
2  
3  
4

5 I wish to make the following changes,  
6 for the following reasons:  
7

8 PAGE LINE

9 \_\_\_\_\_ CHANGE: \_\_\_\_\_

10 REASON: \_\_\_\_\_

11 \_\_\_\_\_ CHANGE: \_\_\_\_\_

12 REASON: \_\_\_\_\_

13 \_\_\_\_\_ CHANGE: \_\_\_\_\_

14 REASON: \_\_\_\_\_

15 \_\_\_\_\_ CHANGE: \_\_\_\_\_

16 REASON: \_\_\_\_\_

17 \_\_\_\_\_ CHANGE: \_\_\_\_\_

18 REASON: \_\_\_\_\_

19  
20 MARC JACOBS

DATE

21  
22 SUBSCRIBED AND SWORN TO BEFORE

23 ME THIS \_\_\_\_ DAY OF \_\_\_\_\_, 20 \_\_\_\_.

24  
25 NOTARY PUBLIC

COMMISSION EXPIRES